

REMARKS/ARGUMENTS

This Amendment is being filed concurrently with a Request for Continued Examination (RCE). With this Amendment, Applicant amends claims 9, 10, 25, 26 and 27. No new matter is added. Based on the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration of the application and allowance of the claims.

I. Rejection of Claims 9-10 & 25-27 Under 35 U.S.C. § 112, First Paragraph

Claims 9-10 and 25-27 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. (See pg. 2 of the Office Action)

In rejecting claims 9-10 and 25-27 under § 112, first paragraph, the Examiner alleges that the recitation “of an ‘operable device with at least two operating states that may be produced or changed independently from each other’” was not described in such a way as to reasonably convey to one skilled in the art ... at the time the application was filed ... [that Applicant] had possession of the claimed invention.” (See *id.*) Applicant herein amends independent claims 9, 10, 25, 26 and 27 and submits that these self-explanatory claim amendments overcome the § 112, first paragraph rejection. In this regard, Applicant points out that the amendments to claims 9, 10, 25, 26 and 27 are supported by the originally-filed application and do not constitute new matter. For instance, support for the amendments to claims 9, 10, 25, 26 and 27 may be found at least on page 1, lines 8-12, page 2, lines 15-19 and page 3, lines 5-7 of the originally-filed specification. Additionally, Applicant submits that at least page 1, lines 8-12, page 2, lines 15-19 and page 3, lines 5-7 of the originally-filed specification was reasonably described in such a way as to convey to a skilled artisan that Applicant had possession of the claimed invention recited in amended claims 9, 10, 25, 26 and 27. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 112, first paragraph rejection of independent claims 9, 10, 25, 26 and 27.

II. Rejection of Claims 9 & 25-26 Under 35 U.S.C. § 112, Second Paragraph

Claims 9, 25 and 26 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. (See pg. 3 of the Office Action)

In rejecting claims 9, 25 and 26 under § 112, second paragraph, the Examiner asserts that it is unclear whether the claim recitation “on a basis of the driving profile” “refers to blocks or releases the existing operating states of the operable device; or whether an actual driving situation is dangerous or non-dangerous; or both.” (See pg. 3 of the Office Action) Applicant herein amends claims 9, 25 and 26 and submits that these self-explanatory claim amendments overcome the § 112, second paragraph rejection. In this regard, Applicant submits that the amendments to claims 9, 25 and 26 render clear that blocking or releasing, respectively, of operating states is performed based on whether a driving situation is considered dangerous or non-dangerous, respectively. Additionally, Applicant points out that the determination regarding whether a driving situation is considered dangerous or non-dangerous in turn is decided based on the driving profile. Support for the amendments to claims 9, 25 and 26 may be found at least on page 2, lines 15-19, page 3, lines 26-28, page 4, lines 4-6 and page 6, lines 19-29 of the originally-filed specification and Applicant submits that a skilled artisan clearly understands the scope of amended claims 9, 25 and 26 in light of at least page 2, lines 15-19, page 3, lines 26-28, page 4, lines 4-6 and page 6, lines 19-29 of the originally-filed specification without requiring any additional explanation. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 112, second paragraph rejections of claims 9, 25 and 26.

III. Rejection of Claims 10, 12, 14, 16, 18, 20, 22, 24, and 27-28 Under 35 U.S.C. § 102(e)

Claims 10, 12, 14, 16, 18, 20, 22, 24, 27 and 28 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Hardouin (U.S. Patent No. 6,311,078; hereinafter “Hardouin”).

Claim 10 recites a system, comprising *at least one operable device* with operating states that are producible or changeable. The device is used in a vehicle, with an operating panel configured to allow a user to cause at least one of producing existing operating states or changing existing operating states of the operable device. The system comprises at least one sensor in the vehicle and a decision unit, coupled to the operating panel, which receives driving speed data from at least one sensor for determining vehicle-specific conditions by measuring fluctuation of the driving speed of the vehicle over a time period *and blocks or releases the existing operating states of the operable device based on the measured fluctuation.*

Applicant submits that Hardouin does not teach or suggest all of the above features of claim 10 and as such claim 10 and its dependent claims 12, 14, 16, 18, 20, 22 and 24 are not anticipated by Hardouin. In contrast to claim 10, Hardouin does not mention, teach or suggest **blocking or releasing** existing operating states of the operable device according to the actual driving situation, as required by claim 10. Rather, Hardouin at most discloses a manner in which to block signalling of incoming calls and to prevent outgoing calls based on the speed at which a wireless telephone is moving. However, Hardouin does not **block or release** operating states as required by claim 10. In this regard, consider column 3, lines 1-6 of Hardouin set forth below:

“Decision block 209 determines if the user of the wireless telephone is attempting to perform a call origination... If the answer is yes in decision block 209, decision block 211 determines if call originations are restricted above the predefined speed.” (emphasis added)

In view of the foregoing portion of Hardouin, it is clear that Hardouin does not **block or release** the operational state, since it could not be determined if the user attempts call origination if the operational state were blocked or released. In contrast to claim 10, Hardouin at most discloses that the input operation performed by the user does not result in an action such as establishing an outgoing call. In other words, Hardouin at most discloses that the execution of input operations is prevented.

However, this is disadvantageous, because a user utilizing an operable device that appears to be operable but which does not execute the input operations will apparently be very distracted, for example, while driving. As a consequence, the user may try to repeat the input operation a couple of times, during which time the user may not be able to give his full attention to driving. This is undesirable.

In contrast to Hardouin, claim 10 recites that the operable device is **blocked or released** if a dangerous driving situation is detected. In this regard, the user will not be distracted because he is blocked or released from operating his device. Claim 10 allows the user to realize that his device is currently blocked or released because of a dangerous situation. In other words, the user will not be fooled into waiting for the execution of input operations that will not occur as would

be the case according to Hardouin. Additionally, unlike the user utilizing the device of Hardouin, the user utilizing the claimed operable device will not try to repeat input operations when the existing operating state of the operable device is blocked or released.

Based at least on the foregoing reasons, Hardouin is deficient and does not teach or suggest all of the features of claim 10. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of independent claim 10 and its dependent claims 12, 14, 16, 18, 20, 22 and 24.

Since claim 27 contains features that are analogous to, though not necessarily coextensive with the features recited in claim 10, Applicant submits that independent claim 27 and its dependent claim 28 are patentable at least for reasons analogous to those submitted for claim 10.

IV. Rejection of Claims 9, 11, 13, 15, 17, 19, 21, 23 & 25-26 Under 35 U.S.C. § 103(a)

Claims 9, 11, 13, 15, 17, 19, 21, 23, and 25-26 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hardouin, in view of Hahn et al. (U.S. Patent No. 6,188,949 B1; hereinafter "Hahn").

Claim 9 recites, *inter alia*, a system, comprising a decision unit coupled to an operating panel of an operable device, which blocks or releases the existing operating states of the operable device. As discussed above with respect to claim 10, Hardouin does not teach or suggest blocking or releasing existing operating states of an operable device. Hahn does not make up for these deficiencies of Hardouin and is not cited for such.

For at least the foregoing reasons, the combination of Hardouin and Hahn is deficient and does not teach or suggest all of the features of claim 9. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of independent claim 9 and its dependent claims 11, 13, 15, 17, 19, 21 and 23.

Since claims 25 and 26 contain features that are analogous to, though not necessarily coextensive with the features recited in claim 9, Applicant submits that independent claims 25 and 26 are patentable at least for reasons analogous to those submitted for claim 9.

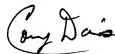
Appl. No.: 09/621,085
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Reply to Office Action of October 28, 2008

V. Conclusion

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Miller is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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